

AMENDMENTS TO LB 454

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Sections 1 to 21 of this act shall be known
4 and may be cited as the Concealed Handgun Permit Act.

5 Sec. 2. An individual may obtain a permit to carry a
6 concealed handgun in accordance with the Concealed Handgun Permit
7 Act.

8 Sec. 3. For purposes of the Concealed Handgun Permit
9 Act:

10 (1) Concealed handgun means the handgun is totally hidden
11 from view. If any part of the handgun is capable of being seen, it
12 is not a concealed handgun;

13 (2) Emergency services personnel means a volunteer or
14 paid firefighter or rescue squad member or a person certified to
15 provide emergency medical services pursuant to the Emergency
16 Medical Services Act;

17 (3) Handgun means any firearm with a barrel less than
18 sixteen inches in length or any firearm designed to be held and
19 fired by the use of a single hand;

20 (4) Peace officer means any town marshal, chief of police
21 or local police officer, sheriff or deputy sheriff, the
22 Superintendent of Law Enforcement and Public Safety, any officer of
23 the Nebraska State Patrol, any member of the National Guard on
24 active service by direction of the Governor during periods of

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1 emergency or civil disorder, any Game and Parks Commission
2 conservation officer, and all other persons with similar authority
3 to make arrests;

4 (5) Permitholder means an individual holding a current
5 and valid permit to carry a concealed handgun issued pursuant to
6 the act; and

7 (6) Proof of training means an original document or
8 certified copy of a document, supplied by an applicant, that
9 certifies that he or she either:

10 (a) Within the previous three years, has successfully
11 completed a handgun training and safety course approved by the
12 Nebraska State Patrol pursuant to section 6 of this act; or

13 (b) Is a member of the active or reserve armed forces of
14 the United States or a member of the National Guard and has had
15 handgun training within the previous three years.

16 Sec. 4. (1) Application for a permit to carry a
17 concealed handgun shall be made in person at any Nebraska State
18 Patrol Troop Headquarters or office provided by the patrol for
19 purposes of accepting such an application. The applicant shall
20 present a current Nebraska motor vehicle operator's license,
21 Nebraska-issued state identification card, or military
22 identification card and shall submit two legible sets of
23 fingerprints for a criminal history record information check
24 pursuant to section 5 of this act. The application shall be made
25 on a form prescribed by the Superintendent of Law Enforcement and
26 Public Safety. The application shall state the applicant's full
27 name, social security number, motor vehicle operator's license

1 number or state identification card number, address, and date of
2 birth and contain a statement that the information on the
3 application is true and correct, a statement that the applicant
4 understands the use of lawful force for the protection of himself
5 or herself, his or her family, and his or her property, and the
6 applicant's signature and shall include space for the applicant to
7 affirm that he or she meets each and every one of the requirements
8 set forth in section 7 of this act.

9 (2) A person applying for a permit to carry a concealed
10 handgun who gives false information or offers false evidence of his
11 or her identity is guilty of a Class IV felony.

12 (3) The permit to carry a concealed handgun shall be
13 issued by the Nebraska State Patrol within five business days after
14 completion of the applicant's criminal history record information
15 check, if the applicant has complied with this section and has met
16 all the requirements of section 7 of this act.

17 (4) An applicant denied a permit to carry a concealed
18 handgun may appeal to the district court of the judicial district
19 of the county in which he or she resides or the county in which he
20 or she applied for the permit pursuant to the Administrative
21 Procedure Act.

22 Sec. 5. In order to insure an applicant's initial
23 compliance with sections 4 and 7 of this act, the applicant for a
24 permit to carry a concealed handgun shall be fingerprinted by the
25 Nebraska State Patrol and a check made of his or her criminal
26 history record information maintained by the Federal Bureau of
27 Investigation through the Nebraska State Patrol. The criminal

1 history record information check under the act is for initial
2 compliance only.

3 Sec. 6. (1) The Nebraska State Patrol shall prepare and
4 publish minimum training and safety requirements for and adopt and
5 promulgate rules and regulations governing handgun training and
6 safety courses and handgun training and safety course instructors.
7 Minimum safety and training requirements for a handgun training and
8 safety course shall include, but not be limited to:

9 (a) Knowledge and safe handling of a handgun;

10 (b) Knowledge and safe handling of handgun ammunition;

11 (c) Safe handgun shooting fundamentals;

12 (d) A demonstration of competency with a handgun with
13 respect to the minimum safety and training requirements;

14 (e) Knowledge of federal, state, and local laws
15 pertaining to the purchase, ownership, transportation, and
16 possession of handguns;

17 (f) Knowledge of federal, state, and local laws
18 pertaining to the use of a handgun, including, but not limited to,
19 use of a handgun for self-defense and laws relating to justifiable
20 homicide and the various degrees of assault;

21 (g) Knowledge of ways to avoid a criminal attack and to
22 defuse or control a violent confrontation; and

23 (h) Knowledge of proper storage practices for handguns
24 and ammunition, including storage practices which would reduce the
25 possibility of accidental injury to a child.

26 (2) A person or entity conducting a handgun training and
27 safety course and the course instructors shall be approved by the

1 patrol before operation. The patrol shall issue a certificate
2 evidencing its approval.

3 (3) A certificate of completion of a handgun training and
4 safety course shall be issued by the person or entity conducting a
5 handgun training and safety course to persons successfully
6 completing the course. The certificate of completion shall also
7 include certification from the instructor that the person
8 completing the course does not suffer from a readily discernible
9 physical infirmity that prevents the person from safely handling a
10 handgun.

11 (4) Any fee for participation in a handgun training and
12 safety course is the responsibility of the applicant.

13 Sec. 7. An applicant shall:

14 (1) Be at least twenty-one years of age;

15 (2) Not be prohibited from purchasing or possessing a
16 handgun by 18 U.S.C. 922, as such section existed on January 1,
17 2005;

18 (3) Possess the same powers of eyesight as required under
19 section 60-4,118 for a Class O operator's license. If an applicant
20 does not possess a current Nebraska motor vehicle operator's
21 license, the applicant may present a current optometrist's or
22 ophthalmologist's statement certifying the vision reading obtained
23 when testing the applicant. If such certified vision reading meets
24 the vision requirements prescribed by section 60-4,118 for a Class
25 O operator's license, the vision requirements of this subdivision
26 shall have been met;

27 (4) Not have pled guilty to, not have pled nolo

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1 contendere to, or been convicted of a felony or a crime of
2 violence;

3 (5) Not have been found in the previous five years to be
4 a mentally ill dangerous person under the Nebraska Mental Health
5 Commitment Act or a similar law of another jurisdiction or is not
6 currently adjudged mentally incompetent;

7 (6) Have been a resident of this state for at least one
8 hundred eighty days. For purposes of this section, resident does
9 not include an applicant who maintains a residence in another state
10 and claims that residence for voting or tax purposes;

11 (7) Have had no violations of any law of this state
12 relating to firearms, unlawful use of a weapon, or controlled
13 substances or of any similar laws of another jurisdiction in the
14 five years preceding the date of application;

15 (8) Not be on parole, probation, house arrest, or work
16 release;

17 (9) Be a citizen of the United States; and

18 (10) Provide proof of training.

19 Sec. 8. The design and form of the permit to carry a
20 concealed handgun shall be prescribed by the Superintendent of Law
21 Enforcement and Public Safety. The permit shall list the
22 permitholder's name, the permitholder's address, and expiration
23 date of the permit and contain a photograph of the permitholder.

24 Sec. 9. A permitholder shall continue to meet the
25 requirements of section 7 of this act during the time he or she
26 holds the permit. If, during such time, a permitholder does not
27 continue to meet one or more of the requirements, the permitholder

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1 shall return his or her permit to the Nebraska State Patrol for
2 revocation. If a permitholder does not return his or her permit,
3 the permitholder is subject to having his or her permit revoked
4 under section 13 of this act.

5 Sec. 10. (1) A permit to carry a concealed handgun is
6 valid throughout the state for a period of five years after the
7 date of issuance. The fee for issuing a permit is one hundred
8 dollars.

9 (2) The Nebraska State Patrol shall renew a person's
10 permit to carry a concealed handgun for a renewal period of five
11 years, subject to continuing compliance with the requirements of
12 section 7 of this act. The renewal fee is fifty dollars, and
13 renewal may be applied for up to four months before expiration of a
14 permit to carry a concealed handgun.

15 (3) The applicant shall submit the fee with the
16 application to the Nebraska State Patrol. The fee shall be
17 remitted to the State Treasurer for credit to the Public Safety
18 Cash Fund.

19 Sec. 11. A permit to carry a concealed handgun shall be
20 issued to a specific individual only and shall not be transferred
21 from one person to another.

22 Sec. 12. The Nebraska State Patrol or any agent,
23 employee, or member thereof is not civilly liable to any injured
24 person or his or her estate for any injury suffered, including any
25 action for wrongful death or property damage suffered, relating to
26 the issuance or revocation of a permit to carry a concealed handgun
27 issued pursuant to the Concealed Handgun Permit Act.

1 Sec. 13. (1) Any peace officer having probable cause
2 that a permitholder is no longer in compliance with one or more
3 requirements of section 7 of this act shall bring an application
4 for revocation of the permit to be prosecuted as provided in
5 subsection (2) of this section.

6 (2) It is the duty of the county attorney or his or her
7 deputy of the county in which such permitholder resides to
8 prosecute a case for the revocation of a permit to carry a
9 concealed handgun brought pursuant to subsection (1) of this
10 section. In case the county attorney refuses or is unable to
11 prosecute the case, the duty to prosecute shall be upon the
12 Attorney General or his or her assistant.

13 (3) The case shall be prosecuted as a civil case, and the
14 permit shall be revoked upon a showing by a preponderance of the
15 evidence that the permitholder does not meet one or more of the
16 requirements of section 7 of this act.

17 (4) A person who has his or her permit revoked under this
18 section may be fined up to one thousand dollars and shall be
19 charged with the costs of the prosecution. The money collected
20 under this subsection as an administrative fine shall be remitted
21 to the State Treasurer for distribution in accordance with Article
22 VII, section 5, of the Constitution of Nebraska.

23 Sec. 14. (1) A permitholder shall carry his or her
24 permit to carry a concealed handgun and his or her Nebraska
25 driver's license, Nebraska-issued state identification card, or
26 military identification card any time he or she carries a concealed
27 handgun. The permitholder shall display both the permit to carry a

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1 concealed handgun and his or her Nebraska motor vehicle operator's
2 license, Nebraska-issued state identification card, or military
3 identification card when asked to do so by a peace officer or by
4 emergency services personnel.

5 (2) Whenever a permitholder who is carrying a concealed
6 handgun is contacted by a peace officer or by emergency services
7 personnel, the permitholder shall immediately inform the peace
8 officer or emergency services personnel that the permitholder is
9 carrying a concealed handgun.

10 (3) (a) During contact with a permitholder, a peace
11 officer or emergency services personnel may secure the handgun or
12 direct that it be secured during the duration of the contact if the
13 peace officer or emergency services personnel determines that it is
14 necessary for the safety of any person present, including the peace
15 officer or emergency services personnel. The permitholder shall
16 submit to the order to secure the handgun.

17 (b) (i) When the peace officer has determined that the
18 permitholder is not a threat to the safety of any person present,
19 including the peace officer, and the permitholder has not committed
20 any other violation that would result in his or her arrest or the
21 suspension or revocation of his or her permit, the peace officer
22 shall return the handgun to the permitholder before releasing the
23 permitholder from the scene and breaking contact.

24 (ii) When emergency services personnel have determined
25 that the permitholder is not a threat to the safety of any person
26 present, including emergency services personnel, and if the
27 permitholder is physically and mentally capable of possessing the

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1 handgun, the emergency services personnel shall return the handgun
2 to the permitholder before releasing the permitholder from the
3 scene and breaking contact. If the permitholder is transported for
4 treatment to another location, the handgun shall be turned over to
5 any peace officer. The peace officer shall provide a receipt which
6 includes the make, model, caliber, and serial number of the
7 handgun.

8 (4) For purposes of this section, contact with a peace
9 officer means any time a peace officer personally stops, detains,
10 questions, or addresses a permitholder for an official purpose or
11 in the course of his or her official duties, and contact with
12 emergency services personnel means any time emergency services
13 personnel provide treatment to a permitholder in the course of
14 their official duties.

15 Sec. 15. (1) (a) A permitholder may carry a concealed
16 handgun anywhere in Nebraska, except any: Police, sheriff, or
17 Nebraska State Patrol station or office; detention facility,
18 prison, or jail; courtroom or building which contains a courtroom;
19 polling place during a bona fide election; meeting of the governing
20 body of a county, public school district, municipality, or other
21 political subdivision; meeting of the Legislature or a committee of
22 the Legislature; financial institution; professional,
23 semiprofessional, or collegiate athletic event; school, school
24 grounds, school-owned vehicle, or school-sponsored activity or
25 athletic event; place of worship; emergency room or trauma center;
26 political rally or fundraiser; establishment having a license
27 issued under the Nebraska Liquor Control Act that derives over

1 one-half of its total income from the sale of alcoholic liquor;
2 place where the possession or carrying of a firearm is prohibited
3 by state or federal law; a place or premises where the person,
4 persons, entity, or entities in control of the property or employer
5 in control of the property has prohibited permitholders from
6 carrying concealed handguns into or onto the place or premises; or
7 into or onto any other place or premises where handguns are
8 prohibited by law or rule or regulation.

9 (b) A financial institution may authorize its security
10 personnel to carry concealed handguns in the financial institution
11 while on duty so long as each member of the security personnel, as
12 authorized, is in compliance with the Concealed Handgun Permit Act
13 and possesses a permit to carry a concealed handgun issued pursuant
14 to the act.

15 (2) If a person, persons, entity, or entities in control
16 of the property or an employer in control of the property prohibits
17 a permitholder from carrying a concealed handgun into or onto the
18 place or premises and such place or premise are open to the public,
19 a permitholder does not violate this section unless the person,
20 persons, entity, or entities in control of the property or employer
21 in control of the property has posted conspicuous notice that
22 carrying a concealed handgun is prohibited in or on the place or
23 premises or has made a request, directly or through an authorized
24 representative or management personnel, that the permitholder
25 remove the concealed handgun from the place or premises. A
26 permitholder carrying a concealed handgun in a vehicle into or onto
27 any place or premises does not violate this section so long as the

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1 handgun is not removed from the vehicle while the vehicle is in or
2 on the place or premises. An employer may prohibit employees or
3 other persons who are permitholders from carrying concealed
4 handguns in vehicles owned by the employer.

5 (3) A permitholder shall not carry a concealed handgun
6 while he or she is consuming alcohol or while the permitholder has
7 remaining in his or her blood, urine, or breath any previously
8 consumed alcohol or any controlled substance as defined in section
9 28-401. A permitholder does not violate this subsection if the
10 controlled substance in his or her blood, urine, or breath was
11 lawfully obtained and was taken in therapeutically prescribed
12 amounts.

13 Sec. 16. Any time the discharge of a handgun carried by
14 a permitholder pursuant to the Concealed Handgun Permit Act results
15 in injury to a person or damage to property, the permitholder shall
16 make a report of such incident to the Nebraska State Patrol on a
17 form designed and distributed by the Nebraska State Patrol. The
18 information from the report shall be maintained as provided in
19 section 18 of this act.

20 Sec. 17. (1) A permitholder who violates subsection (1)
21 or (2) of section 14 of this act or section 15 or 16 of this act is
22 guilty of a Class III misdemeanor for the first violation and a
23 Class I misdemeanor for any second or subsequent violation.

24 (2) A permitholder who violates subsection (3) of section
25 14 of this act is guilty of a Class I misdemeanor.

26 (3) A permitholder who violates this section shall also
27 be subject to revocation of his or her permit under section 13 of

1 this act.

2 Sec. 18. The Nebraska State Patrol shall maintain a
3 listing of all applicants and permitholders and any pertinent
4 information regarding such applicants and permitholders. The
5 information shall be available upon request to all federal, state,
6 and local law enforcement agencies. Information relating to an
7 applicant or to a permitholder received or maintained pursuant to
8 the Concealed Handgun Permit Act by the Nebraska State Patrol or
9 any other law enforcement agency is confidential and shall not be
10 considered a public record within the meaning of sections 84-712 to
11 84-712.09.

12 Sec. 19. Nothing in the Concealed Handgun Permit Act
13 prevents a person from carrying a concealed weapon as permitted
14 under section 28-1202.

15 Sec. 20. The Nebraska State Patrol may adopt and
16 promulgate rules and regulations to carry out the Concealed Handgun
17 Permit Act.

18 Sec. 21. (1) The Department of Motor Vehicles shall
19 modify the existing system of the department to allow the status of
20 a permit to carry a concealed handgun and the dates of issuance and
21 expiration of such permit to be recorded on the permitholder's
22 record provided for in section 60-483. The Nebraska State Patrol
23 shall use the system to record the issuance or renewal of a permit
24 to carry a concealed handgun. The transmission of notice of the
25 issuance or renewal of such permit shall include the applicant's
26 name, the applicant's motor vehicle operator's license number or
27 state identification card number, and the dates of issuance and

1 expiration of the permit to carry a concealed handgun.

2 (2) An abstract of a court record of every case in which
3 a person's permit to carry a concealed handgun is revoked shall be
4 transmitted to the Department of Motor Vehicles using the
5 abstracting system provided for in section 60-497.01. Such
6 abstract shall contain the name of the revoked permitholder, his or
7 her motor vehicle operator's license number or state identification
8 number, and the date of revocation of the permit to carry a
9 concealed handgun.

10 Sec. 22. Section 28-1202, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 28-1202. (1) (a) Except as otherwise provided in
13 ~~subsection (2)~~ of this section, any person who carries a weapon or
14 weapons concealed on or about his or her person such as a revolver,
15 pistol, bowie knife, dirk or knife with a dirk blade attachment,
16 brass or iron knuckles, or any other deadly weapon commits the
17 offense of carrying a concealed weapon.

18 ~~(2)~~ (b) It ~~shall be~~ is an affirmative defense that the
19 defendant was engaged in any lawful business, calling, or
20 employment at the time he or she was carrying any weapon or weapons
21 and the circumstances in which such person was placed at the time
22 were such as to justify a prudent person in carrying the weapon or
23 weapons for the defense of his or her person, property, or family.

24 (2) This section does not apply to a person who is the
25 holder of a valid permit issued under the Concealed Handgun Permit
26 Act if the concealed weapon the defendant is carrying is a handgun
27 as defined in section 3 of this act.

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1 (3) Carrying a concealed weapon is a Class I misdemeanor.

2 (4) In the case of a second or subsequent conviction
3 under this section, carrying a concealed weapon is a Class IV
4 felony.

5 Sec. 23. This act becomes operative on January 1, 2006.

6 Sec. 24. If any section in this act or any part of any
7 section is declared invalid or unconstitutional, the declaration
8 shall not affect the validity or constitutionality of the remaining
9 portions.

10 Sec. 25. Original section 28-1202, Reissue Revised
11 Statutes of Nebraska, is repealed.".